

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST
FOR REVIEW BY:

KERRY D. REDMOND

Petitioner.

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CHARGE NO.: 2009CF2369

EEOC NO.: 21BA91075

ALS NO.: 09-0470

ORDER

This matter coming before the Commission by a panel of three, Commissioners David Chang, Marylee V. Freeman and Yonnie Stroger presiding, upon Kerry D. Redmond's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")¹ of Charge No. 2009CF2369; and the Commission having reviewed *de novo* the Respondent's investigation file, including the Investigation Report and the Petitioner's Request, and the Respondent's response to the Petitioner's Request; and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner's charge is **SUSTAINED** on the following ground:

LACK OF JURISDICTION

In support of which determination the Commission states the following findings of fact and reasons:

1. On February 3, 2009, the Petitioner filed a charge of discrimination with the Respondent. The Petitioner alleged that Foster & Sons Fire Extinguishers, Inc. (the "Employer") discharged him because of his race, Black, in violation of Section 2-102(A) of the Illinois Human Rights Act (the "Act"). On August 24, 2009, the Respondent dismissed the Petitioner's charge for Lack of Jurisdiction. On August 26, 2009, the Petitioner timely filed his Request.
2. The Petitioner alleges the Employer discharged him on January 27, 2009, because of his race.
3. The Respondent determined that throughout 2008, and the first quarter of 2009, the Employer had maintained fewer than 15 employees. At no point in the relevant time period had Employer maintained fifteen or more employees for twenty or more consecutive weeks.
4. Section 2-101(B)(1)(a) of the Act states that an "employer" includes... "[a]ny person employing 15 or more employees within Illinois during 20 or more calendar weeks within the calendar year of or preceding the alleged violation." 775 ILCS 5/2-101(B)(1)(a).
5. Based on Section 2-101(B)(1)(a), the Respondent dismissed the Petitioner's charge for lack of jurisdiction.
6. In his Request, the Petitioner provides no relevant evidence for the Commission's consideration.

¹ In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge requesting review of the Department's action shall be referred to as the "Petitioner."

CONCLUSION

The Commission's review of the Respondent's investigation file leads it to conclude that the Respondent properly dismissed the Petitioner's charge for Lack of Jurisdiction.

The Employer is not an "employer" within the meaning of the Act because it did not employ 15 or more employees during the relevant time period. Therefore, the Respondent correctly determined that it lacked jurisdiction to investigate this matter.

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show that the Respondent's dismissal of his charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of the Petitioner's charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Foster & Sons Fire Extinguishers, Inc., as Respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

STATE OF ILLINOIS

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Entered this 10th day of March 2010.

Commissioner David Chang

Commissioner Marylee Freeman

Commissioner Yonnie Stroger